

Atty. Docket No. YOR920000168US1  
(590.014)

**REMARKS**

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. Please note the fact that February 25, 2006, was a Saturday ensures that this submission is being timely filed on February 27, 2006, the next business day.

A telephonic interview was conducted between the undersigned and the Examiner on November 10, 2005, in which the Examiner agreed to withdraw the 35 U.S.C. 112 rejections to claims 13 and 26 based on the Applicants' remarks provided in the Amendment After Final dated August 25, 2005. However, no further agreement was reached regarding the withdrawal of the remaining rejections to the claims.

A second telephonic interview was conducted on December 13, 2005, between the undersigned counsel for the Applicants, the Examiner, and one of the named inventors of the present invention in which the present rejections were again discussed. The discussion was primarily directed to the limitation "plurality of levels of phonetic detail of varying resolution for each frame." Again, no agreement was reached regarding the withdrawal of the remaining rejections to the claims.

Claims 1-27 were pending in the instant application at the time of the outstanding Office Action. Of these claims, claims 1, 14, and 27 are independent claims; the remaining claims are dependent claims. Claims 1-3, 6-12, 14-16, 19-25 and 27 stand rejected under 35 U.S.C. §103(a); and claims 4-5 and 17-18 have been indicated by the Examiner as being allowable if rewritten in independent form. The Office is respectfully

Atty. Docket No. YOR920000168US1  
(590.014)

requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks.

Claims 1-3, 6-12, 14-16, 19-25 and 27 continue to stand rejected under 35 U.S.C. §103(a) over Goldenthal et al. in view of Newman et al. The independent claims have been amended to recite, *inter alia*, "[p]roviding a model corresponding to a target speaker, the model being resolved **hierarchially** into at least one frame comprising a **plurality** of levels of phonetic detail of varying resolution for each frame...". (Claim 1, 14, and 27)(emphasis added) It should be understood that the Applicants intend no change in the scope of the claims made by the changes made by this amendment. It should also be noted this amendment is not made in acquiescence of the Office's position on the allowability of the claims but merely to expedite prosecution.

As the Examiner is assuredly aware, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 there must be: (1) a suggestion or motivation to modify a reference or combine references; (2) a reasonable expectation of success in making the modification or combination; and (3) a teaching or suggestion to one skilled in the art of all the claim limitations of the invention to which the art is applied. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants respectfully submit the present invention as claimed clearly distinguishes over the cited art and is therefore not obvious. The present invention's claim to, *inter alia*, the hierarchical resolution of a model of a target speaker is simply not taught or suggested in either Goldenthal or Newman; therefore, a *prima facie* case of obvious cannot be established, thus, the rejections can be properly withdrawn at this juncture.

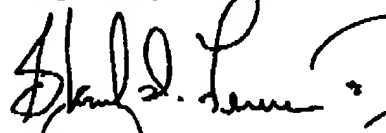
Atty. Docket No. YOR920000168US1  
(590.014)

Applicants acknowledge that claims 4-5 and 17-18 were indicated by the Examiner as being allowable if rewritten in independent form. Applicants reserve the right to file new claims of such scope at a later date that would still, at that point, presumably be allowable.

In view of the foregoing, it is respectfully submitted that claims 1, 14 and 27 fully distinguish over the applied art and is thus are in condition for allowance. By virtue of dependence from what are believed to be allowable independent claims 1 and 14, it is respectfully submitted that claims 2-13 and 15-26 are also presently allowable.

In summary, it is respectfully submitted that the instant application, including claims 1-27, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. In the unlikely event, however, it appears the claims will not be allowed, the Office is invited to call the undersigned to discuss the claims prior to the issuance of a further Office Action.

Respectfully submitted,



Stanley D. Ference III  
Registration No. 33,879

**Customer No. 35195**  
FERENCE & ASSOCIATES  
409 Broad Street  
Pittsburgh, Pennsylvania 15143  
(412) 741-8400  
(412) 741-9292 - Facsimile

Attorneys for Applicants